

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

STATE OF INDIANA,
ex rel. Steve Carter, Attorney General of Indiana,
and the CITY OF EAST CHICAGO,
ex rel. Steve Carter, Attorney General of Indiana,

Plaintiffs,

vs.

Cause No.

ROBERT A. PASTRICK; TIMOTHY W. RAYKOVICH;
EDUARDO MALDONADO; FRANK KOLLINTZAS;
ADRIAN SANTOS; JOE DE LA CRUZ;
JOSE VALDEZ, JR.; PEDRO PORRAS;
GEORGE E. WEEMS; FRANK MISKOWSKI;
JAMES HAROLD FIFE, III;
KIMBERLY K. ANDERSON;

A Jury Trial Is Demanded

A & A ENTERPRISES; ACE ENTERPRISE;
A-1 DAVE'S TREE SERVICE, INC.,
d/b/a DAVE'S TREE SERVICE;
B & S CONSTRUCTION; CALUMET CONCRETE &
MASONRY, INC.; D/S COMMERCIAL EQUIPMENT &
CONSTRUCTION; GARCIA LE & ASSOCIATES, LLC.,
d/b/a GREAT LAKES ENGINEERING, LLC.;
H & Y MAINTENANCE CO., INC.;
JGM ENTERPRISES, INC.; RESIDENTIAL
CONSTRUCTION SERVICE, INC., a/k/a
RESIDENTIAL ROOFING & CONCRETE, INC.;
RIETH-RILEY CONSTRUCTION CO., INC.;
ROGER & SONS CONSTRUCTION, CO., INC.;
T.R.I., INC.;
WINDSTORM ENTERPRISES, INC.;
ST. PAUL FIRE AND MARINE INSURANCE;

and DEFENDANTS A through Z,

Defendants.

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COMPLAINT AND JURY DEMAND

Plaintiffs, the State of Indiana *ex rel.* Steve Carter, Attorney General of Indiana, and the City of East Chicago *ex rel.* Steve Carter, Attorney General of Indiana, by and through their undersigned counsels, for their Complaint against Defendants, state and allege as follows:

I. INTRODUCTION

1. Plaintiffs the State of Indiana (the "State") and the City of East Chicago (or "East Chicago") bring this claim under 18 U.S.C. § 1961 *et seq.*, as well as various State claims for relief, including Indiana Code § 34-24-2-1 *et seq.*, Indiana Code § 5-11-1-1 *et seq.*, and various common law claims.

2. The Plaintiffs seek to redress the harm done to the public welfare, the property of East Chicago and the State of Indiana that has resulted from the Scheme Defendants' (as defined below) conducting the affairs of, or participating directly or indirectly in the conducting of the affairs of, an enterprise engaged in interstate commerce, the City of East Chicago, through a pattern of activities unlawful under 18 U.S.C. § 1961(1)(B) ("Predicate Crimes"). In particular, the Scheme Defendants engaged in a pattern of Predicate Crimes for more than two years wherein they unlawfully used more than \$18 million belonging to the City of East Chicago to construct sidewalks, driveways, patios, porches and parking lots and to trim trees on public and private property, the purpose of which was to corrupt the electoral process in the May 1999 East Chicago Democrat Party mayoral primary by buying votes (the "Sidewalks for Votes Scheme"). To redress the harm caused by the Sidewalks for Votes Scheme, Plaintiffs seek actual, punitive and treble damages, attorney fees, pre- and post-judgment interest, and injunctive relief including restitution and disgorgement.

II. JURISDICTION AND VENUE

3. Plaintiffs seek relief under Title IX of Public Law No. 91-452, 84 Stat. 922 *et seq.*, as amended, 18 U.S.C. § 1961 *et seq.* (“Federal Claims”). This Court has jurisdiction over the subject matter of this claim pursuant to 18 U.S.C. §§ 1964 (a) and (c) (18 U.S.C. § 1961 *et seq.*) and 28 U.S.C. §§1331 (Federal question) and 1337 (interstate commerce) over these Federal Claims for relief.

4. Plaintiffs also seek relief under Indiana law, including Indiana Code § 34-24-2-1 *et seq.*, Indiana Code § 5-11-1-1 *et seq.*, and Indiana common law claims (“State Claims”) that arise out of a common nucleus of operative facts shared with the Federal Claims, over which this Court has supplemental jurisdiction under 28 U.S.C. § 1367 (supplemental jurisdiction).

5. This Court has personal jurisdiction over each of the Defendants under Rule 4(k) of the Federal Rules of Civil Procedure, Indiana Trial Rules 4.1 and 4.4, and 18 U.S.C. § 1965 (b) and (d) because each Defendant either (1) resides, may be found, has an agent or transacts or has transacted, in person or through an agent, business within Indiana and this District; or (2) contracts or has contracted to supply goods or services within Indiana or this District; or (3) has committed a tortious act within Indiana or this District; or (4) the ends of justice require that Defendants residing in any other district be brought before this Court.

6. Venue herein is proper under 18 U.S.C. § 1965(a) and (b) and under 28 U.S.C. § 1391(b) because one or more Defendants reside, are found, have an agent, or transact their affairs in the Northern District of Indiana and a substantial part of the events or omissions giving rise to the claims occurred in this District.

III. PARTIES

A. Plaintiffs and Relator

7. Plaintiff the State of Indiana is a body politic and sovereign entity.

8. Plaintiff the City of East Chicago is a unit of local government known as a municipal corporation and a political subdivision of the State of Indiana. East Chicago provides services to its citizens through various departments and offices in the executive branch of East Chicago. In its purchases of goods and services from vendors located in other States, East Chicago is engaged in or its activities affect interstate commerce. East Chicago has the capacity to sue and be sued.

9. Relator the Attorney General of Indiana, Steve Carter, is the chief legal representative of the State of Indiana, the City of East Chicago, and the body politic. The Attorney General is empowered by statute to bring State and Federal claims on behalf of the State of Indiana. The Attorney General is also empowered to enforce demands by the State Board of Accounts (“SBOA”) on behalf of the State as well as local governmental entities against officials of those entities who have committed acts of fiscal misfeasance, malfeasance, and nonfeasance, or have otherwise violated Indiana or Federal law.

B. Defendants

1. Individual Defendants

10. Defendant Robert Pastrick (“Pastrick”) was elected to serve as the Mayor of the City of East Chicago in 1971 and was re-elected every term through 2003. As the executive of the East Chicago government, Pastrick is responsible for enforcing East Chicago ordinances and State statutes, ensuring the efficient government of East Chicago, and supervising subordinate officers, including Defendants Raykovich and Maldonado. Pastrick was the manager of the

Sidewalks for Votes Scheme, personally and through other Scheme Defendants who owed to him their own positions of political power and pecuniary interest, and was the primary beneficiary of the Sidewalks for Votes Scheme.

11. Defendant Timothy Raykovich ("Raykovich") was appointed by Pastrick in 1999 to be Special Assistant to the Mayor where he continues to serve at the pleasure of Pastrick. In his capacity as the Special Assistant to the Mayor, Raykovich managed and operated the Sidewalks for Votes Scheme as Pastrick's "point man."

12. Defendant Edwardo Maldonado ("Maldonado") was appointed by Pastrick to serve as City Controller and Chief Financial Officer of the East Chicago Sanitary District in 1997, where he continues to serve at the pleasure of Pastrick. In his capacity as the City Controller, Maldonado is also the Trustee of the Gaming Incentives Expendable Trust Fund. In 1999 he served at the pleasure of Pastrick as a member of the Board of Public Works, a member of the Capital Improvements Committee, and as treasurer for the Campaign to Re-elect Mayor Robert Pastrick. Maldonado managed and operated the Sidewalks for Votes Scheme and authorized or executed most, if not all, the payment instruments (including checks and wire transfers) used to finance the Sidewalks for Votes Scheme.

13. Defendant Frank Kollintzas ("Kollintzas") was elected in 1979 to serve as a member of the Common Council of the City of East Chicago ("Common Council") as Fourth District Councilman, and was re-elected every term through 2003. In May 1999, Kollintzas was seeking re-election. Kollintzas operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

14. Defendant Adrian Santos ("Santos") was elected in 1995 to serve as a member of the Common Council as Fifth District Councilman and was re-elected every term through 2003.

Santos is a retired East Chicago police officer. Santos operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants while he sought re-election in May 1999.

15. Defendant Joe De La Cruz ("De La Cruz") was elected in 1983 to serve as a member of the Common Council as an at-large Councilman, and was re-elected every term through 2003. He currently serves as the President of the Common Council. In May 1999, De La Cruz was seeking re-election for at-large City Councilman. De La Cruz is also a sworn officer of the East Chicago Police Department. De La Cruz operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

16. Defendant Jose Valdez, Jr. ("Valdez") was appointed by Pastrick as a General Foreman in the East Chicago Parks Department, where he continues to serve at the pleasure of Pastrick. Valdez also served as a Precinct Committeeman for the Fourth District. Valdez operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

17. Defendant Pedro Porras ("Porras") was appointed by Pastrick to serve as City Engineer in January or early February 1999, a position Porras held throughout 1999. Porras operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

18. Defendant George E. Weems ("Weems") was appointed by Pastrick to serve as President of the Board of Public Works. In 1999, Weems was an employee of National City Bank, located in East Chicago, which served as East Chicago's depository bank. After Weems' employment with National City Bank ended in 1999, Pastrick appointed Weems to serve as Finance Director of East Chicago. To date, Weems continues to serve as both Finance Director and President of Board of Public Works, and in both positions serves at the pleasure of Pastrick.

Weems operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

19. Defendant Frank Miskowski ("Miskowski") was appointed by Pastrick on January 29, 1999, to the Board of Public Works, where he continues to serve at the pleasure of Pastrick. Miskowski operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

20. Defendant James Harold Fife, III ("Fife") served, at some point prior to Defendant Raykovich, as the Special Assistant to Pastrick, in which capacity he served at the pleasure of Pastrick. As Pastrick's confidant, Fife operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants.

21. Defendant Kimberly K. Anderson ("Anderson") is employed in the East Chicago Office of the City Controller ("Controller's Office") as the Deputy Controller, where she serves at the pleasure of Pastrick. As the Deputy Controller, Anderson oversees the daily functions of the Controller's Office and performs duties of the Controller in his absence. Anderson operated the Sidewalks for Votes Scheme on behalf of Pastrick and the other Scheme Defendants, including by notarizing backdated contracts between the City and the contractors in 1999.

2. Company Defendants

22. Defendant A & A Enterprises ("A & A Enterprises") is a business organization formed under Indiana law. Terrance Artis, the brother of East Chicago City Councilman Randall Artis, is the owner of A & A Enterprises. A& A Enterprises improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

23. Defendant Ace Enterprise ("Ace Enterprise") is a business organization formed under Indiana law. Ace Enterprise improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

24. Defendant A-1 Dave's Tree Service, Inc., d/b/a Dave's Tree Service ("Dave's Tree Service") is a business organization incorporated under Indiana law. The Principal of Dave's Tree Service is David L. Johnson. Dave's Tree Service improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

25. Defendant B & S Construction ("B & S Construction") is a business organization formed under Indiana law. B & S Construction improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

26. Defendant Calumet Concrete & Masonry, Inc. ("Calumet Concrete") is a business organization incorporated under the Indiana law. Robert J. Velligan, Jr., is the President and a Principal of Calumet Concrete. Calumet Concrete was administratively dissolved in 1998 and was thereby ineligible to receive a Certificate of Existence/Authorization by the State of Indiana from 1999 to present. Calumet Concrete improperly and illegally performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

27. Defendant D/S Commercial Equipment and Construction ("D/S Construction") is a business organization formed under Indiana law. D/S Construction improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

28. Defendant Garcia LE & Associates, L.L.C., d/b/a Great Lakes Engineering, L.L.C. ("Great Lakes") is a limited liability corporation formed under Indiana law. Great Lakes provided specifications and bid packages for the 1998 Street Improvement Program. Great

Lakes also oversaw the verification process of completed work by the contractors in the Sidewalks for Votes Scheme.

29. Defendant H & Y Maintenance Co., Inc. ("H & Y Maintenance") was a business organization incorporated under Indiana law. H & Y Maintenance was administratively dissolved in 2002. H & Y Maintenance improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

30. Defendant JGM Enterprises, Inc. ("JGM Enterprises") is a business organization formed under Indiana law. Joel Markovich is the owner of the JGM Enterprises. JGM Enterprises improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

31. Defendant Residential Construction Service, Inc., a/k/a Residential Roofing & Concrete, Inc. ("Residential Construction") was a business organization incorporated under Indiana law. Residential Construction improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

32. Defendant Rieth-Riley Construction Co., Inc. ("Rieth-Riley") is a business organization incorporated under Indiana law. Rieth-Riley was one of the bidders for the 1998 Street Improvement Program. Rieth-Riley aided the Individual Defendants and the other Company Defendants in the Sidewalks for Votes Scheme by accepting a backdated contract for work already performed and assigning its rights under that contract to other Company Defendants who had performed that work. This was done so that it would appear that the 1999 Sidewalk Program had met the bidding requirements of Indiana law.

33. Defendant Roger & Sons Construction Co., Inc. ("Roger & Sons") is a business organization incorporated under Indiana law. Roger Zepeda is the President of Roger & Sons.

Roger & Sons improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

34. Defendant T.R.I., Inc. (“TRI”) is a business organization incorporated under Indiana law. TRI improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

35. Defendant Windstorm Enterprises, Inc. (“Windstorm Enterprises”) is a business organization formed under Indiana law. Windstorm Enterprises improperly performed public and nonpublic work consisting of concrete and/or tree services for the Sidewalks for Votes Scheme.

3. Unknown Defendants

36. Defendants A-Z are other persons or entities whose identity is presently unknown to the Plaintiffs, but who participated in the Sidewalks for Votes Scheme as described more fully below and are equally as liable to the Plaintiffs as the known Defendants. The identities of Unknown Defendants A-Z will be added as discovery develops.

4. The Scheme Defendants

37. The Individual Defendants, Company Defendants, and Unknown Defendants A-Z are collectively referred to as the “Scheme Defendants.”

5. Insurance Defendant

38. Defendant St. Paul Fire and Marine Insurance (“St. Paul”) is a corporation duly authorized to conduct business in Indiana. Defendant is now, and was, at all times relevant to this action, engaged in the business, among others, of writing bonds upon and in favor of public officials and their subordinate public employees in the State of Indiana.

IV. RELEVANT PERIOD OF TIME

39. The Relevant Period of Time for these claims for relief begins in 1996 with the creation of an apparatus—namely the Gaming Trust—for unlawfully diverting East Chicago money and property for unauthorized private and political use, continues with actual unlawful diversions of East Chicago money and property into the Gaming Trust beginning in 1997, further continues with the unauthorized use of unappropriated East Chicago money and property from both the East Chicago General Fund and the Gaming Trust in connection with the Sidewalks for Votes Scheme, and still continues to the date of this Complaint with further unauthorized and unlawful diversions of East Chicago money and property into the Gaming Trust.

V. FACTS COMMON TO ALL CLAIMS

A. The Government of the City of East Chicago

40. East Chicago is a unit of local government known as a municipal corporation and a political subdivision of the State of Indiana. By virtue of its population having been at one time or another greater than 35,000 but less than 250,000, it is classified as a second-class city. The powers of East Chicago are divided among its legislative, executive and judicial branches. A power belonging to one branch of East Chicago's government may not be exercised by any other.

41. East Chicago's legislative branch is the Common Council, which consists of a nine-member body whose members are elected by residents of East Chicago every four years. Six members are elected from single-member districts and three members are elected at large. Pursuant to Indiana law, the Common Council has the power to pass ordinances, orders, resolutions and motions for the government of East Chicago, as well as control of East Chicago's property and finances and the appropriation of money. The Common Council may, by

ordinance, make loans of money and issue bonds for the purpose of procuring money to be used in the exercise of the powers of East Chicago or for payment of City debts. The Common Council, by ordinance, has established the executive departments that it considers necessary to efficiently perform the administrative functions required to fulfill the needs of East Chicago's citizens.

42. The East Chicago executive is the Mayor who is elected every four years. The mayor's duties include, among other things, enforcement of the ordinances of East Chicago and State statutes, supervision of subordinate officers, and ensuring the efficient government of East Chicago. The Mayor is responsible for appointing the heads of each department established by East Chicago's legislative body.

43. East Chicago provides city services to its citizens through various departments, including but not limited to:

(a) The East Chicago Board of Public Works ("Board of Public Works"). The Board of Public Works is a three-member body whose members are appointed by the Mayor of East Chicago. Pursuant to Indiana law and the Municipal Code, the Board of Public Works controls and maintains custody of public sidewalks and has legal authority to award contracts for public works projects to outside entities and individuals. Because East Chicago is classified as a second class city, Indiana law requires East Chicago to obtain competitive bids on all public works projects estimated at more than \$75,000 in order to safeguard the public against fraud, favoritism, graft, extravagance, improvidence, and corruption and to ensure honest competition for the best work and supplies at the lowest and most responsive cost. Indiana law prohibits structuring work to avoid the \$75,000 bid limit.

As to the bidding process, the Board of Public Works establishes policies and procedures governing, among other things, notifying the public through advertisements of the projects in local papers, screening of prospective contractors and, ultimately, deciding which contractor is to be awarded the contract. The Board of Public Works has legal authority to review and approve change orders to contracts involving public work. Indiana law also requires and authorizes the Board of Public Works to approve all claims from contractors requesting payment for goods or services before the East Chicago City Controller can issue a check for payment of those goods or services.

(b) The East Chicago Department of Finance is headed by the East Chicago City Controller ("Controller"), who is the fiscal officer of East Chicago. The Controller is appointed by and serves at the pleasure of the Mayor. The responsibilities of the Controller include, among other things, managing and directing finances and accounts for East Chicago. Indiana law imposes certain legal duties on the Controller, including: (1) the Controller may only pay a claim (such as a bill or invoice submitted for goods or services against East Chicago) if the Common Council authorized an appropriation for that purpose and that appropriation has not otherwise been exhausted; (2) neither the Controller, nor any other City department, officer or employee, may obligate East Chicago to any extent beyond the amount of money appropriated by the Common Council for that department, officer, or employee; (3) if the Controller (a) finds that the claim includes an item for which the Common Council has made no appropriation, (b) concludes that there is not a sufficient balance in the proper fund for payment of the claim, or (c) concludes that the claim should not be approved for any other reason, the Controller may not issue warrants to pay the claim, and he is required to notify the proper department of the reasons for his refusal to pay the claim. By virtue of the Declaration of Charitable Expendable Trust

signed by Defendant Pastrick and by the president of Showboat Marina Casino Partnership ("Showboat"), the Controller also became the trustee of the Gaming Incentives Expendable Trust Fund.

(c) The Department of Parks and Recreation ("Parks Department") is responsible for, among other things, maintaining parks and public ways in East Chicago. Pursuant to Indiana law and the Municipal Code, the Parks Department is authorized to perform, or hire others to perform, tree removal on public property. If a tree is likely to fall upon a sidewalk, street or building, or if a tree interferes with traffic signals, signs or constitutes a hazard or danger, the Parks Department may remove the tree from private property at the expense of the property owner.

(d) The East Chicago Engineering Department is headed by the East Chicago City Engineer ("City Engineer") who is appointed by and serves at the pleasure of the Mayor. The East Chicago Engineer is responsible for, among other things, directing, coordinating and controlling all engineering activities such as preparing all necessary charts, blueprints, drawings and specifications carried on within East Chicago and within the jurisdiction of the Board of Public Works. Pursuant to the Municipal Code, the East Chicago Engineer is responsible for approving or rejecting construction permits regarding the repair or replacement of public sidewalks.

44. In discharging their public duties, the Mayor, the members of the Common Council, the Controller, the East Chicago Engineer and the Parks Department Supervisors are bound by the following Indiana laws and legal principles:

(a) By virtue of their positions, the Mayor, the members of the Common Council, the Controller, the East Chicago Engineer and the Parks Department Supervisors owe a

fiduciary duty and a duty of honest services to the people of East Chicago and the City of East Chicago in the performance of their public duties; and

(b) According to the Uniform Compliance Guidelines established by the SBOA pursuant to Ind. Code § 5-11-1-24, a governmental entity is prohibited from: (1) using public funds to make improvements to property not owned by a governmental unit, unless permitted by statute, Federal or State requirements, or safety concerns; (2) using public funds to pay for personal items or for expenses that do not relate to the functions and purposes of the governmental unit; (3) using public funds, directly or indirectly, for political expenditures or for contributions to political campaigns; (4) reducing the cash balance of any fund below zero; and (5) disbursing public funds in excess of appropriations.

B. Sidewalks For Votes Scheme

1. Overview

45. As described in more detail below, beginning in August 1996, when Defendant Pastrick established a "Gaming Trust" as the apparatus for illegally diverting money and property belonging to East Chicago for his own personal and political use, the Scheme Defendants devised and participated in a scheme to steal or convert the money and property of East Chicago in furtherance of what matured into the Sidewalks for Votes Scheme. Through the Sidewalks for Votes Scheme, the Scheme Defendants unlawfully used both East Chicago's General Fund as well as diverted proceeds from an agreement with a riverboat casino to pay Company Defendants and others for unlawful public and non-public work, such as private patios, porches, and driveways, for which the Common Council had made no appropriation and for which none of the Company Defendants had submitted a lawful bid.

46. The Sidewalks for Votes Scheme proceeded generally as follows: Between mid-February 1999 and continuing to at least May 4, 1999, all Individual Defendants, Unknown Defendants A-Z, and other East Chicago Officials performed, ostensibly on behalf of East Chicago, under color of official right, and at East Chicago's expense, acts in excess of their lawful authority, including soliciting, directing and authorizing numerous contractors and sub-contractors (some of whom had no experience, permits, licenses, insurance, or bonding) to pour concrete, trim and cut trees, and provide other services for residents, businesses and a church in East Chicago for non-public, political purposes. The Board of Public Works neither accepted lawful bids for any of this work, nor entered into any valid or legally binding contracts for any of it.

47. Furthermore, the Individual Defendants, Unknown Defendants A-Z, and other East Chicago Officials arranged for and authorized contractors to receive millions of dollars of East Chicago's money and property as compensation for their participation in the Sidewalks for Votes Scheme, knowing that the contractors did not perform legitimate public work to earn such compensation, including through the following activities:

- (a) authorizing and directing contractors to perform work on public and private residential property for political and non-public purposes;
- (b) authorizing and directing contractors to perform work for commercial businesses for political and non-public purposes;
- (c) authorizing and directing contractors to perform work for a church for political and non-public purposes;
- (d) pressuring contractors to complete work on or before the primary election on May 4, 1999;

- (e) ordering contractors not to perform work for certain citizens;
- (f) authorizing and allowing contractors to charge East Chicago excessive and non-competitive rates for the services provided by contractors;
- (g) allowing contractors to submit vague and incomplete billings and invoices for the services the contractors provided; and
- (h) ordering contractors to structure proposals in amounts less than \$75,000 to avoid Indiana law requirements for bids in excess of \$75,000.

48. The overriding purpose of the Sidewalks for Votes Scheme was political victory for Defendant Pastrick in the May 4, 1999, East Chicago Democrat Party mayoral primary, and by extension the political and personal gain of those who supported him and depended on him for their positions of power and pecuniary interest, including all Scheme Defendants. Pastrick was facing a serious mayoral primary challenge from Stephen Stiglich, who was also Lake County's Democrat Party chair. With Pastrick's position of power threatened by Stiglich, the positions of power and pecuniary interest of all those who depended on Pastrick for those positions, including all Scheme Defendants, were also threatened.

49. The Sidewalks for Votes Scheme was further intended to benefit all of the Scheme Defendants, individually, severally and jointly, as well as other persons and entities, known and unknown, by, *inter alia*, using East Chicago money and property (including the East Chicago General Fund and Showboat Agreement proceeds, and proceeds from the 1999 BAN sale) for personal, political and individual gain, to the detriment of East Chicago and its citizens.

2. East Chicago's Agreement with Showboat

50. In 1993, the Indiana General Assembly passed the Indiana Riverboat Gambling Act, which authorized the Indiana Gaming Commission to issue a restricted number of licenses

to private concerns that wished to establish riverboat casinos within the State. In particular, this Act provided for the Gaming Commission to issue one license for a riverboat casino located in East Chicago. Before the Gaming Commission could issue this license, however, by statute East Chicago had to pass an ordinance permitting a riverboat casino to dock within the city, and the residents of East Chicago had to pass a referendum in two separate elections approving generally the issuance of a license for a riverboat casino to be located in East Chicago. Only after East Chicago and its residents separately approved the operation of a riverboat casino within the City would the Gaming Commission consider applications for a license to operate in East Chicago.

51. The Riverboat Gambling Act sets forth a rigorous application process for prospective licensees. Among other things, applicants are required not only to show their financial stability, but also to demonstrate how they would provide for the economic development of the city where the riverboat casino would be located.

52. On April 8, 1994, the Showboat Marina Casino Partnership ("Showboat") entered into an Agreement with East Chicago ("Showboat Agreement") whereby Showboat agreed, among other things, to make economic development payments totaling 3% of Showboat's adjusted gross receipts (as defined in the Indiana Riverboat Gambling Act) in the event Showboat received a license from the Indiana Gaming Commission and began operating a casino. The Showboat Agreement specified that these payments would be allocated as follows: 1% to the City of East Chicago; 1% to the Twin City Education Foundation (TCEF) (a private foundation); and 1% to the East Chicago Community Foundation (ECCF) (a private foundation).

53. Among other things, these promised payments were an inducement for the East Chicago Common Council to pass, as it did, the necessary ordinance described in paragraph 50, *supra*. Also in exchange for these promised payments, East Chicago explicitly agreed to support

Showboat's application for a casino owner's license to the Indiana Gaming Commission. Such support in front of the Gaming Commission was significant especially in light of Showboat's need to demonstrate the adequacy of its plan to provide for East Chicago's economic development.

54. Defendant Pastrick, in his capacity as Mayor of East Chicago, accepted the Showboat Agreement on behalf of the City of East Chicago, subject to the approval of the Common Council of East Chicago.

55. On September 11, 1995, in Resolution R-95-0009, the Common Council ratified the Showboat Agreement, including the 1% payment to the City and the 1% payments each to the private foundations TCEF and ECCF.

56. The Indiana Gaming Commission issued Showboat a "Certificate of Suitability" on February 27, 1996, and a five-year license to operate a riverboat casino in East Chicago on April 15, 1997. Showboat commenced full-time gambling at its East Chicago casino on April 18, 1997.

**3. The Diversion of Showboat Agreement Proceeds
into the "Gaming Trust"**

57. On June 1, 1996, Defendant Pastrick, via Executive Order 96-01, established the Executive Finance Committee of East Chicago (the "Executive Finance Committee"). The Executive Finance Committee consists of the following voting members: City Controller, Director of Utilities, Director of Redevelopment, Director of Community Services, Director of Business Planning, City Engineer, and Chairman of the East Chicago Common Council Finance Committee, all of whom serve at the pleasure of Pastrick. The purpose of the Executive Finance Committee is, among other things, to make recommendations to the Mayor and the Controller on

the allocation of East Chicago's Showboat Agreement proceeds among East Chicago departments and projects.

58. On or about August 7, 1996, Defendant Pastrick, without the approval of the Common Council, and having no executive authority to divert the money and property of East Chicago without that approval, executed a "Declaration of Charitable Expendable Trust" that created something ostensibly called "the Gaming Incentives Expendable Trust Fund" (or "Gaming Trust"), naming the East Chicago Controller as Trustee. Among the powers of the Trustee was the power to allocate, upon the recommendation of the Executive Finance Committee, East Chicago's proceeds from the Showboat Agreement.

59. The power to appropriate the money and property of East Chicago rests with the Common Council, not the Mayor. For example, because the Showboat Agreement was an agreement between East Chicago and Showboat, in order for East Chicago to assign money or property under the Agreement to the private foundations TCEF and ECCF, the Common Council had to pre-approve the Showboat Agreement, which specifically called for Agreement proceeds to be paid to those private foundations, and thereby appropriate that money and property of East Chicago.

60. However, Defendant Pastrick, by creating the Executive Finance Committee and the Gaming Trust, and by appointing the City Controller also to serve as the Trustee of the Gaming Trust, created an unlawful apparatus through which he could bypass the Common Council's power and responsibility to appropriate city money and property. Unlike the payments to TCEF and ECCF, the Common Council passed no prior approval or appropriation for Pastrick's scheme to divert East Chicago's share of the Showboat Agreement proceeds into the Gaming Trust. This scheme enabled Pastrick to retain sole power and discretion to decide how

East Chicago's Showboat Agreement proceeds would be spent. In short, Pastrick established a scheme to unlawfully divert East Chicago's Showboat Agreement proceeds into his own personal fund, which he then spent without appropriation.

61. Showboat began issuing checks to the City of East Chicago in 1997 in payment of its obligations under the Showboat Agreement. These payments should have been receipted into East Chicago's General Fund, but were instead receipted by Defendant Maldonado, or someone acting at his direction, into the Gaming Trust at National City Bank in East Chicago. As part of the settlement process, these checks, or electronic representations of them, then proceeded across State lines to the Chicago Clearing House Association or to the Federal Reserve Bank of Chicago. After processing in Chicago, the checks, or electronic representations of them, would then proceed back across State lines to the payor bank in East Chicago, which would honor the checks or electronic representations.

62. Examples of these unlawfully diverted checks are enumerated in Appendix A to this Complaint, and are incorporated herein by reference. Each such diversion to the Gaming Trust was an unauthorized use of East Chicago's money and property and constituted theft and knowing conversion. This pattern of theft and knowing conversion has continued up to the date of this Complaint.

4. 1998: Preliminary Plans for East Chicago Capital Improvements

63. At the June 3, 1998, meeting of the Board of Public Works, which at that time was comprised of Defendants Weems, Maldonado, and then-City Engineer Serafin Fernandez ("Fernandez"), Defendant Weems presented a proposal from Defendant Great Lakes concerning a program that Weems designated as the "Street Improvement Program" that included asphalt paving and concrete sidewalk replacement. The City Engineer Fernandez objected to the

proposal because it appeared to be duplicative of the Engineering Department's separate Street Improvement Program. Defendant Maldonado stated that the "work was something that the Mayor has been asking us to do," expressed a need to proceed with the "Street Improvement Program" ("Proposed 1998 Street Improvement Program"), and moved to accept the agreement with Defendant Great Lakes. No Board Member offered a second to that motion, and the motion died. The Board of Public Works took no further action to authorize the Proposed 1998 Street Improvement Program.

64. Although the Board of Public Works did not authorize the Proposed 1998 Street Improvement Program, Defendant Great Lakes nonetheless prepared specifications for the Proposed 1998 Street Improvement Program as if it had been approved. Great Lakes also assisted in advertising the project in local newspapers and reviewed bids submitted by contractors. Great Lakes divided the Proposed 1998 Street Improvement Program between "Asphalt Work" for asphalt paving and "Sidewalk Work" for replacement of sidewalks and other concrete structures.

65. On June 16, 1998, three contractors, specifically, Defendant Rieth-Riley, Bucko Construction Company, Inc., and Walsh & Kelly Construction Company submitted bids for the Asphalt Work and Sidewalk Work portions of the Proposed 1998 Street Improvement Program.

66. On July 6, 1998, at a Special Called Meeting of the Board of Public Works, the Board, upon the recommendation of Defendant Great Lakes, accepted Defendant Rieth-Riley's unit bid for the Asphalt Work portion of the Proposed 1998 Street Improvement Program (but not the Sidewalk Work portion of that bid) in the amount of \$1,436,692.40, even though the Board had taken no further action to authorize either the Sidewalk or the Asphalt portions of the

Proposed 1998 Street Improvement Program. The Board of Public Works took no action on the Sidewalk Work at this Special Called Meeting or at any other time.

5. 1999: Execution of the Sidewalks for Votes Scheme

67. On January 29, 1999, Fernandez resigned his post as the City Engineer.

Defendant Porras was appointed by Defendant Pastrick to serve as City Engineer. On January 29, 1999, Defendant Miskowski was appointed to the Board of Public Works by Defendant Pastrick to replace Fernandez. On February 3, 1999, at a regular meeting of the Board of Public Works, Defendant Maldonado nominated Defendant Miskowski as Vice President of the Board of Public Works. Defendant Miskowski offered a second to that motion and the motion was passed unanimously by the three-member Board.

68. On February 17, 1999, Defendant Porras, as the new City Engineer, attended the regular meeting of the Board of Public Works. Porras spoke at the meeting and requested the Board of Public Works to authorize public bids for the replacement of sidewalks. Defendant Weems asked whether bids had gone out for the Proposed 1998 Street Improvement Program. Defendant Maldonado explained that the bids had gone out for the Proposed 1998 Street Improvement Program but were never used.

69. The Board of Public Works approved Defendant Porras' February 17, 1999, request and authorized Porras to open bids for the "1999 Sidewalk Program" on March 17, 1999.

70. On or about March 1999, Defendant Porras advertised the "East Chicago Sidewalk Program," which was the name used by the Board of Public Works for the 1999 Sidewalk Program, in local newspapers. The advertisements instructed contractors to obtain bid packages from the East Chicago Engineer's Office and return them to the Board of Public Works by March 31, 1999, when the bids would be publicly opened and read aloud.

71. In late February and early March 1999, Defendant Great Lakes prepared specifications and bid packages for the East Chicago Sidewalk Program.

72. On or about March 23, 1999, Defendant Porras instructed Defendant Great Lakes to stop working on the East Chicago Sidewalk Program. John Garcia of Great Lakes prepared and distributed a notice instructing all prospective bidders that the project was delayed until further notice.

73. The Board of Public Works did not accept or reject any bids for the East Chicago Sidewalk Program on March 31, 1999.

74. Notwithstanding the Board of Public Works' decision not to accept bids pursuant to the East Chicago Sidewalks Program, one or more of the Individual Defendants and Unknown Defendants A-Z induced one or more of the Company Defendants to build, under color of contract with and authority from the City of East Chicago, sidewalks, parking lots and other capital improvements on public and private property within the jurisdiction of the City of East Chicago beginning in the month of February 1999 and continuing through the months of April and May 1999 and beyond. The Scheme Defendants engaged in these capital improvement projects in order to curry political favor with the beneficiaries in view of the forthcoming May 4, 1999, East Chicago Democrat Party primary election, which would feature not only a vigorous challenge to Defendant Pastrick, but also vigorous challenges to all members of the Common Council (including Individual Defendants Kollintzas, De La Cruz, and Santos).

75. In furtherance of this Scheme, sometime in March or early April 1999, Defendant Maldonado, who was both City Controller and treasurer of the Campaign to Re-elect Mayor Robert Pastrick, instructed Unknown Defendant A, who worked for the Campaign to Re-elect Mayor Robert Pastrick, to supervise contractors pouring concrete and trimming trees in East

Chicago. Maldonado further instructed Unknown Defendant A that the contractors must submit bills and invoices in amounts less than \$75,000 to avoid Indiana law requirements for bids in excess of \$75,000. Unknown Defendant A then directed at least three contractors to pour concrete and trim trees on public and private property. Unknown Defendant A obtained lists for work to be completed on public and private property from the Mayor's Office in City Hall and directed some of the Company Defendants who are contractors to perform the work. Unknown Defendant A then delivered contractors' bills and invoices to Maldonado and employees working in the Controller's Office.

76. Also sometime in March or early April 1999, Defendants Maldonado and Porras instructed Company Defendants Windstorm Enterprises and Roger & Sons to submit multiple proposals for concrete work to avoid exceeding the \$75,000 limit for bids to avoid Indiana bidding laws. Windstorm Enterprises and Roger & Sons knowingly complied with these instructions and created multiple proposals for concrete replacement, all less than the \$75,000 bid limit.

77. Also sometime in March or early April 1999, Defendant Porras instructed Company Defendant Residential Construction to submit multiple proposals for concrete work to avoid exceeding the \$75,000 limit for bids to avoid Indiana bidding laws. Residential Construction knowingly complied with Porras's instructions and created multiple proposals for concrete replacement, all less than the \$75,000 bid limit.

78. In the meantime, beginning no later than March 1999 and continuing to the primary election on May 4, 1999, Defendants Kollintzas, De La Cruz, Santos, Valdez, some of the Defendants A-Z, and other East Chicago elected and appointed officials, approached East Chicago residents and businesses and (1) falsely represented that East Chicago had a duly

authorized and lawful program to use East Chicago money or property for work on public and private property and (2) offered contractors to perform work on public and private property to induce political support.

(a) For example, in March 1999, Defendant Pastrick met with an official for the Our Lady of Guadalupe Church, located in East Chicago, and guaranteed that East Chicago would perform work for the church. Thereafter, Defendant Porras authorized Defendant Roger & Sons to renovate a parking lot owned by the church, including asphalt paving and electrical work. Defendant Maldonado falsified claim paperwork to give the impression that the work was performed on public property for the sidewalk project. In August 1999, Maldonado caused East Chicago to pay Defendant Roger & Sons approximately \$77,000 of East Chicago money or property for work performed at the church in East Chicago.

(b) For further example, in early April 1999 Defendant Kollintzas approached a certain business in East Chicago and told the owner that East Chicago would pay for the paving of the business's parking lot. Thereafter, Defendant Roger & Sons excavated that parking lot and poured new concrete with the approximate value of \$100,000. A few days before the May 4, 1999, primary election, the business owner hosted a large party for various East Chicago elected officials. Defendant Maldonado caused East Chicago to pay Roger & Sons with East Chicago money or property for the work performed on the business owner's parking lot.

79. All together, between mid February and June 30, 1999, Defendant Maldonado caused East Chicago to pay approximately \$9.1 million of East Chicago money or property to concrete contractors who had performed work on public, private and commercial property and approximately \$1.5 million of East Chicago money or property to tree contractors who trimmed and cut trees on public and private property.

6. Payment of Contractors for the Sidewalks for Votes Scheme

80. Generally, financing and payment of Company Defendants or other contractors who performed work for the Sidewalks for Votes Scheme proceeded in two stages (discussed in more detail in paragraphs 81-103, *infra*): (1) with unappropriated money and property from East Chicago's General Fund bank account; (2) with unappropriated Showboat Agreement Proceeds unlawfully diverted into Pastrick's Gaming Trust personal fund; and (3) with proceeds from East Chicago's sale of Bond Anticipation Notes.

81. Regardless of the funding source, the payments were effected by Defendant Maldonado, whether acting in his role as City Controller, as Gaming Trust Trustee, or both, who caused or authorized checks or wire transfers payable to Company Defendants and other contractors to be drawn on East Chicago accounts at National City Bank, located in East Chicago.

(a) With respect to the checks, the Company Defendant or other contractor would cash or deposit the check at its financial institution. That institution, directly or through a correspondent bank, would typically send the check, or an electronic representation of the check, to the local clearinghouse in Chicago, Illinois, or to the Federal Reserve Bank of Chicago, where the depository financial institution would receive credit. The check, or an electronic representation of the check, would then proceed back across State lines to National City Bank in East Chicago, which would honor the check or its electronic representation (or in some circumstances, dishonor and return it for insufficient funds). Each time a check or its electronic representation crossed state lines, it was being transferred or transmitted in interstate commerce.

(b) With respect to wire transfers, Defendant Maldonado would cause wire transfer instructions to be given to National City Bank in East Chicago. These instructions would include: the account on which the transfer was to be drawn, the amount to be transferred, the name of the Company Defendant or other contractor recipient, the name and address of the recipient's bank, the bank's ABA number, the bank's routing number and the recipient's account number at its bank. National City Bank would then initiate a corresponding wire transfer instruction to the Federal Reserve Bank of Chicago through the use of the Fed Wire system. The Federal Reserve Bank of Chicago would then initiate another corresponding wire transfer instruction to either the recipient's bank or another Federal Reserve Bank, which would initiate a final corresponding wire transfer instruction to the recipient's bank. Upon receipt of that instruction, the recipient's bank would then credit the recipient's account. As each wire transfer went through the Federal Reserve Bank of Chicago, it was being transferred or transmitted in interstate commerce.

a. First Stage Financing: East Chicago's General Fund

82. In the first stage of the financing, the Company Defendants or other contractors were paid directly from East Chicago's General Fund by means that did not comply with statutory or municipal law requirements, including lack of appropriation and through the use of the manual checks drawn on East Chicago's General Fund bank account that avoided procedural safeguards against abuse.

83. As a precaution against theft and abuse, the East Chicago Controller's Office used a computer system to track appropriations, expenditures and account balances. In general, after vendors' claims for payment are reviewed and processed by East Chicago employees, the computer system prints checks to the vendors on a regular schedule, typically twice a month.

84. Defendant Maldonado avoided these processes (and attendant scrutiny by others) by manually issuing checks himself to some Company Defendants and other contractors who performed work in furtherance of the Sidewalks for Votes Scheme, many on the same day that the vendors submitted their claims.

85. Examples of these payments, which began no later than February 19, 1999, are listed in Appendix B to this Complaint, which is incorporated herein by reference. Because of the volume of checks that Maldonado issued to the contractors, by May 1999 East Chicago's General Fund bank account was overdrawn by several million dollars.

86. In 1999, Individual Defendant Weems, as an employee of National City Bank, which again served as East Chicago's depository bank, was in a position to approve and authorize checks written by and drawn on East Chicago's accounts. Weems attempted to temporarily forestall the dishonor and return of checks drawn on East Chicago's General Fund account by approving and authorizing such checks even when there were insufficient funds in the General Fund account to cover the checks. After Weems retired from National City Bank in mid-to-late 1999, Pastrick appointed him to serve as the Economic Development Coordinator for East Chicago in November 1999 and later appointed him Finance Director of East Chicago on or about November 2000.

87. On May 19, 1999, National City Bank returned numerous checks drawn on East Chicago's General Fund unpaid. Thereafter, Defendant Great Lakes, acting under the direction of Defendants Raykovich and Fife, directed Company Defendants or other contractors to stop working. Some contractors apparently walked away from job sites, leaving work unfinished, and in some cases, leaving behind dangerous and hazardous conditions for the residents of East Chicago from the unfinished sidewalk, driveways, patios, and porches.

b. Second Stage Financing Part One: The Gaming Trust

88. Once East Chicago's General Fund was depleted and its bank account overdrawn, the Scheme Defendants embarked on a two-part second stage to finance the Sidewalks for Votes Scheme. The first part consisted of using the Gaming Trust, to which Pastrick, Raykovich, Maldonado, some of Unknown Defendants A-Z, and other individuals known and unknown had diverted or caused to be diverted proceeds from the Showboat Agreement. The payments from the Gaming Trust to Company Defendants and other contractors as compensation for their work in the Sidewalks for Votes Scheme occurred without any appropriation or other authorization from the East Chicago Common Council. Examples of these unappropriated and unlawful Gaming Trust payments, which began no later than July 29, 1999 and continued until at least October 12, 2001, are listed in Appendix C to this Complaint, which is incorporated herein by reference. Each of these Gaming Trust payments constituted an unauthorized use of East Chicago money or property.

c. Second Stage Financing Part Two: The Corrupt BANs

89. The second part of the second stage financing of the Sidewalks for Votes Scheme involved corrupt bond authorizations and appropriations by the Common Council, and a cover-up of the fact that public money previously spent on the Sidewalks for Votes Scheme had neither been paid pursuant to properly accepted public bids, nor appropriated by the Common Council.

90. On or about June 15, 1999, the Common Council conducted a special meeting to discuss East Chicago's financial problems and the deficit created by paying the contractors for the unauthorized concrete work, tree trimming and other services. At the meeting, Defendants Pastrick and Raykovich requested the Common Council to approve emergency appropriations and financing. Ordinance 0-99-0006 requested the Common Council to appropriate an

additional \$14 million “for the purpose of defraying certain expenses” including a \$13.5 million disbursement for “contractual services” and a \$450,000.00 disbursement for “capital outlay.” In order to finance this appropriation, Defendants Pastrick and Raykovich also requested the Common Council to approve Ordinance 0-99-0008 authorizing East Chicago to issue municipal bonds not to exceed \$15 million and to issue Bond Anticipation Notes (BANs) not to exceed \$15 million “to pay the cost of certain capital improvements” in East Chicago. Defendants Kollintzas, De La Cruz, and Santos, among others, voted in favor of both ordinances, and both passed.

91. Ordinance 0-99-0006 made no mention that East Chicago had paid, and intended the proceeds from the BANs to pay, contractors who had performed work on public property in violation of Indiana and municipal bidding and appropriations laws. In addition, Ordinance 0-99-0006 misrepresented that the source of the appropriated money was “solely from wagering tax and admissions tax distributions that have been received as a result of the gaming industry during the year ending December 31, 1999 . . .” and did not disclose another contemplated source of the appropriated money, namely the sale of municipal bonds.

92. Furthermore, Ordinance 0-99-0008 misrepresented that East Chicago had properly hired a consulting engineer to design, estimate and advertise a project involving a “program to reconstruct curbs, sidewalks, and similar concrete structures within East Chicago limits” Ordinance 0-99-0008 made no mention that the work had already been performed or that East Chicago had paid and further intended to pay contractors who had performed work on public property in violation of Indiana and municipal bidding and appropriations law.

93. On or about June 1999, but following the Common Council’s approval or Ordinances 0-99-0006 and 0-99-0008, Defendants Pastrick, Raykovich, Maldonado, Weems,

Miskowski and some of the Unknown Defendants A-Z executed a plan to falsely fulfill the prerequisites for issuing the bonds and selling the BANs approved in ordinance 0-99-0008. In particular, these Defendants needed signed documents representing that the work already completed as part of the Sidewalks for Votes scheme (*i.e.*, the work they were trying to finance post-hoc) had not yet been undertaken.

94. In furtherance of this plan, Defendants Pastrick, Raykovich, Maldonado, Weems, Miskowski and some of the Unknown Defendants A-Z contacted Defendant Rieth-Riley and informed it of their desire to accept a bid that Rieth-Riley had previously submitted on June 16, 1998, for the defunct Proposed 1998 Street Improvement Project. Accepting this bid was a critical part of creating the impression that work performed pursuant to the Sidewalks for Votes Scheme prior to June 1999 had not actually been performed, and in particular that such work had not been paid for notwithstanding the lack of properly accepted bids and a Common Council appropriation. Rieth-Riley declined the offer.

95. On or about June 1999, and following Rieth Riley's decision to reject the offer described in the previous paragraph, Defendant Raykovich arranged a meeting with Rieth-Riley that was held in the East Chicago City Hall. Attendees at this meeting consisted of Defendant Raykovich; General Counsel for Defendant Rieth-Riley Francis J. Gantner; Florzell Hawkins, Jr., the Marketing Manager for Rieth-Riley; Defendant Fife and President of Defendant Great Lakes John E. Garcia; and an unnamed co-conspirator.

96. At some point during this meeting, a separate meeting was held in another room among Defendant Raykovich, Defendant Rieth-Riley's General Counsel, and the same unnamed coconspirator as mentioned in the preceding paragraph. At the conclusion of this separate three-person meeting, Rieth-Riley agreed to execute a contract to perform work under the terms of

their bid for the Proposed 1998 Street Improvement Project bid, even though that project was by then defunct and even though the work described in that bid had already been performed by other contractors as a part of the 1999 Sidewalk Project.

97. On July 30, 1999, Defendant Pastrick and Huey Whitman, the Group Manager for Defendant Rieth-Riley, executed a contract titled as "Assignment of Bid and Right to Contract." With this contract Rieth Riley assigned all of their rights under their bid for the Proposed 1998 Street Improvement Project 1998 and related June 1999 contract (described in the previous paragraph) to designated subcontractors, all of whom are Company Defendants. This July 30, 1999, assignment contract falsely stated that the Board of Public Works had approved Rieth Riley's entire bid for the Proposed 1998 Street Improvement Project (rather than just the asphalt portion, see paragraphs 64-66, *supra*) and made no reference to the fact that the work contemplated by this assignment contract had already been completed by other contractors, including one or more of the designated assignees.

98. In the meantime, in July 1999, Individual Defendants Maldonado, Raykovich and Unknown Defendant B held meetings attended by Company Defendants A & A Enterprises, Ace Enterprise, B & S Construction, Calumet Concrete, D/S Construction, H & Y Maintenance, JGM Enterprises, Residential Concrete, Roger & Sons, T.R.I., Inc., and Windstorm, all of whom had submitted payment claims for work performed in East Chicago as part of the 1999 Sidewalk Project.

99. In furtherance of their scheme to falsely fulfill the prerequisites of issuing bonds and the BANs, individual Defendants Weems, Miskowski, Maldonado, Raykovich and some of the Unknown Defendants A-Z required the Company Defendants who attended these July meetings to sign backdated contracts between these Company Defendants with East Chicago for

work Company Defendants had already provided. The Company Defendants, A & A Enterprises, Ace Enterprise, B & S Construction, Calumet Concrete, D/S Construction, H & Y Maintenance, JGM Enterprises, Residential Concrete, Roger & Sons, T.R.I., Inc., and Windstorm, along with Individual Defendants Maldonado and Weems, signed contracts prepared in advance by Defendants Weems, Miskowski, Maldonado, Raykovich and some of the Unknown Defendants. These July 1999 contracts falsely stated that the Board of Public Works and each Company Defendant had entered into legally binding agreements pursuant to a proper bidding process and were falsely dated July 1998. This backdating was necessary to convey the impression to potential BAN purchasers and potential bond purchasers that the work financed by the BANs and the bonds had not already been completed, and in particular that it had not been performed without properly accepted bids and partially financed with unappropriated East Chicago money and property. These contracts were notarized by Defendant Anderson.

100. The Board of Public Works never approved any of the backdated contracts.

101. On July 30, 1999, East Chicago closed its sale of the BANs to City Securities, which generated proceeds of \$13.75 million. Defendants Pastrick and Maldonado used the BAN proceeds to pay contractors for as-yet uncompensated work related to the Sidewalks for Votes Scheme and to replenish East Chicago's accounts that had been depleted by payments to the contractors as part of the Sidewalks for Votes Scheme.

102. East Chicago never sold bonds to pay off the BANs. Instead, East Chicago used Gaming Boat admissions tax revenues to pay off the BANs, which they did in October 2001.

103. Through these means, all Individual Defendants and some of Unknown Defendants A-Z unlawfully diverted money and property of East Chicago, including Showboat Agreement proceeds, BAN proceeds, and Gaming Admissions Tax proceeds, to be used for the

Sidewalks for Votes Scheme, *i.e.*, for their own political and personal benefit. Furthermore, collectively all Scheme Defendants deprived East Chicago and its citizenry of the opportunity to award and receive work at the most competitive and responsive price.

7. **Conspiracy to Overpay for Sidewalks for Votes Scheme**

104. In addition to conspiring to engage in unlawful conduct to finance the Sidewalks for Votes Scheme, some or all Scheme Defendants were also conspiring to overpay with East Chicago money or property some of the Company Defendants for their work in furtherance of the Sidewalks for Votes Scheme.

105. Sometime in late May or early June 1999, Defendant Great Lakes began measuring and determining the amount of concrete already poured on public, private and commercial property, and the number of trees already trimmed and removed, pursuant to the Sidewalks for Votes Scheme.

106. Sometime in June or July 1999, Defendant Raykovich and some of the Unknown Defendants A-Z, falsely told some of the Company Defendants that, in addition to compensation they had already received for some work performed in furtherance of the Sidewalks for Votes Scheme, they would be paid additional amounts to cover *all* Sidewalks for Votes Scheme work performed on public and private property in 1999. Defendants Raykovich, Maldonado, and some of Unknown Defendants A-Z informed Company Defendants that East Chicago was going to apply a unit pricing system from the backdated contracts (discussed in paragraphs 99-100, *supra*) to the amount of concrete measured and verified by Defendant Great Lakes. Using information from the Controller's Office, Defendant Great Lakes would determine how much money East Chicago had already paid each contractor. Based upon the unit pricing system, the

amount of concrete poured and the amount of money already received, contractors would either be entitled to additional payments or be obligated to return money or property to East Chicago.

107. In response to complaints from Company Defendants who were unhappy with the unit pricing system established by backdated contracts, in July 1999 Defendant Fife ordered Defendant Great Lakes to change paperwork reflecting the amount of money owed to certain Company Defendants. As a result, the Great Lakes consulting engineer altered their Certification Forms for Company Defendants Calumet Concrete, H & Y Maintenance, and Roger & Sons so as to include extra items of payments for overtime, among other things. Defendant Maldonado caused East Chicago to pay Defendants Calumet Concrete, H & Y Maintenance, and Roger & Sons approximately \$2.3 million of additional compensation not paid to other contractors.

108. Furthermore, the Certification Forms for the payments to Company Defendants Calumet Concrete, H & Y Maintenance, and Roger & Sons falsely represented that East Chicago would seek a change order to justify the additional compensation paid to certain contractors. Indiana law required the Board of Public Works to approve any such change orders. However, the Board of Public Works never approved any change orders authorizing these additional payments.

109. In late July and early August 1999, Individual Defendants Raykovich, Maldonado, and Defendant Fife met with Company Defendants A & A Enterprises, Ace Enterprise, B & S Construction, Calumet Concrete, D/S Construction, H & Y Maintenance, JGM Enterprises, Residential Concrete, Roger & Sons, T.R.I., Inc., and Windstorm, and completed settlement negotiations. As a result of the settlement agreements, Defendant Maldonado caused East Chicago to pay immediately to these Company Defendants, in furtherance of the Sidewalks

for Votes Scheme, \$6.8 million of East Chicago money and property. In addition, Defendant Maldonado and other East Chicago officials agreed to pay monthly installments of \$2.9 million in East Chicago money and property beginning in 2000 and continuing through 2001.

110. Notwithstanding the unit pricing scheme described above, Defendant Maldonado and other East Chicago Officials intentionally failed to collect money and property owed to East Chicago by Company Defendants Windstorm Enterprises and JGM Enterprises for overpayments for concrete work. Defendant JGM Enterprises had built political signs and performed other work for various elected East Chicago officials before the primary election.

8. Additional Unlawful Sidewalks for Votes Scheme Payments

111. In late December, 1999, Defendant Maldonado illegally approved a claim submitted by Defendant Roger & Sons requesting payment for approximately \$298,000 of union benefits owed by Roger & Sons for work performed pouring concrete and trimming trees. Maldonado caused East Chicago to issue a check to Roger & Sons for approximately \$298,000. The Board of Public Works did not approve the claim prior to payment, as required by law.

112. In late December 1999, Defendant Maldonado caused East Chicago to issue one or more checks to various Company Defendants totaling approximately \$1 million to complete unfinished sidewalk, tree trimming, and concrete work left by other Company Defendants. The work and payments occurred between mid-August 1999 and 2000.

113. In late December 1999, Defendant Maldonado and several Unknown Defendants A-Z conducted settlement negotiations with tree contractors. Maldonado caused East Chicago to issue checks to tree contractors amounting to at least \$940,000 to settle claims for work performed on public and private property as part of the Sidewalks for Votes Scheme. The payments occurred in late 1999, 2000 and 2001.

VI. TOLLING OF THE STATUTE OF LIMITATIONS

A. Equitable Estoppel

114. The Scheme Defendants took active steps to deceive the State of Indiana and its citizens by engaging in the conduct described in paragraphs 45-113, *supra*. Furthermore, the Relator delayed filing this claim due to the request of, and as a result of an agreement with, counsel employed by one or more of the Scheme Defendants to hold collections actions by the Relator in abeyance until certain legal issues were resolved. Such agreement was reached on or about September 17, 2002, but no resolution of these legal issues has since occurred. These acts, coupled with the Scheme Defendants' suppression of the truth as to their corrupt activities, serve to estop the Scheme Defendants from asserting all affirmative defenses regarding the applicable statutes of limitations, if any.

B. Equitable Tolling

115. The possibility of wrongdoing by the Scheme Defendants first came to the Plaintiffs' attention in February 2000, when the Federal Bureau of Investigation suggested that SBOA should focus on the 1999 Sidewalk Program during the conduct its examination for the Audit Period ended December 31, 1999.

116. Because East Chicago's records lacked sufficient detail to show where the 1999 Sidewalk Program work was performed, the SBOA was unable to determine the propriety of the payments to the Company Defendants. Subsequently, East Chicago hired Defendant Great Lakes to determine the location of the sidewalks and curbs which were replaced. In 2001, when the SBOA conducted its audit of the year ended December 31, 2000, it had sufficient information to issue the finding critical of East Chicago's payment for work done in connection with the Sidewalks for Votes Scheme.

117. On November 6, 2001, that report was certified to the Indiana Attorney General who issued demand letters to: Defendants Maldonado, Weems, Miskowski and St. Paul on November 14, 2001; Defendants Ace Enterprises, A& A Enterprise, H & Y Maintenance, Residential Construction, and Calumet Concrete on January 30, 2002; and Defendants Dave's Tree Service and Calumet Concrete on February 4, 2002.

118. The Attorney General also met with Joseph Van Bokkelen, United States Attorney for the Northern District of Indiana, on December 14, 2001, to obtain cooperation in the civil prosecution of Plaintiffs' claims. Subsequent to that meeting Van Bokkelen requested that the Plaintiffs forestall investigating and filing their civil claims until after his Office made public Federal Grand Jury indictments related to the Sidewalks for Votes Scheme.

119. On September 5, 2003, a Federal Grand Jury indicted Defendants Kollintzas, De La Cruz, Santos, Maldonado, Porras and Valdez on public corruption charges. These indictments were supplemented by the indictments of Councilman Randall Artis and Terrance Artis, the owner of Defendant A & A Enterprises, on May 7, 2004.

120. Accordingly, Plaintiffs have acted always with due diligence in bringing their claims for relief. As such, all applicable statutes of limitation, if any, tolled under the doctrine of equitable tolling and do not bar in whole or in part Plaintiffs' claims for relief.

VII. ALLEGATIONS RELATED TO THE FEDERAL CLAIMS

A. The Enterprise

121. The City of East Chicago is an Indiana municipal corporation of long standing that was originally intended to serve the people of East Chicago; as such the City of East Chicago constitutes an enterprise that, in its transactions with vendors located in other States, engages in or affects interstate commerce within the meaning of 18 U.S.C. § 1961 (3).

B. The Predicate Crimes – Violations of 18 U.S.C. § 2314

122. As set out in greater detail above and below, the Scheme Defendants, having devised a scheme to steal or convert money or property from East Chicago and the State of Indiana, did on several occasions beginning in 1997 and continuing to date, knowingly cause money and property that they knew to be stolen and converted, to be transferred or transmitted in amounts greater than \$5,000 through the channels of interstate commerce. As examples of these unlawful interstate transfers or transmittals of stolen and converted money and property, the Plaintiffs incorporate by reference the listings of checks in Appendix A and the listings of checks and wire transfers in Appendices B-D. Each of these interstate transfers or transmittals of stolen or converted money or property constitutes a separate violation of 18 U.S.C. § 2314 as well as a distinct Predicate Crime under 18 U.S.C. § 1961 (1)(B) (“Predicate Crimes”).

C. Pattern of Predicate Crimes

123. The foregoing Predicate Crimes constitute a “Pattern” within the meaning of 18 U.S.C. § 1961(5) (“Pattern of Predicate Crimes”). The Predicate Crimes reflect both relationship and continuity. The Predicate Crimes are related in that they are connected to one another as part of a scheme to accomplish an unlawful purpose: to divert East Chicago money and property so that it could be expended in pursuit of electoral victory and political power, maturing through the

1999 East Chicago Democrat Party mayoral primary and continuing until now. Their continuity is established by both the repeated nature of the Predicate Crimes during the period of the Sidewalks for Votes Scheme, and the threat of similar Predicate Crimes occurring in the future. The threat of future occurrence is established by the ongoing and continuing nature and purpose of the Predicate Crimes, *i.e.* to ensure victory in the East Chicago Democrat Party primary through illegal means. This is shown both by the Sidewalks for Votes Scheme as it related to the 1999 East Chicago Democrat Party primary, and by illegal activities that influenced the 2003 East Chicago Democrat Party primary.

124. In other words, the Sidewalks for Votes Scheme was not the only time East Chicago Officials engaged in a pattern of unlawful activity to influence the outcome of an East Chicago Democrat Party primary election. The deceitful, dishonest and felonious actions of East Chicago officials in connection with the 2003 East Chicago Democrat Party primary election, recounted in greater detail in the following paragraphs, demonstrate that the Pattern of Predicate Crimes in relation to the Sidewalks for Votes Scheme constituted a regular way of doing business.

125. In 2003, Defendant Pastrick was once again faced with a vigorous mayoral primary challenge, this time by George Pabey ("Pabey"), a candidate for the Democratic nomination for the Office of the Mayor.

126. East Chicago held a primary election on May 6, 2003, for which a total of 10,177 votes were counted. In ballots cast at polling places, Pabey received 3,189 votes (38.76%) and Pastrick received 2,990 votes (36.34%). However, 1,950 ballots, or 19.2% of all votes cast for the Office of the Mayor, were absentee. Pabey received 616 absentee votes (31.59%) and Pastrick received 1,093 absentee votes (56.05%). Thus, while Pabey defeated Pastrick by 199

votes in ballots cast at the polling places, Pastrick's large margin of victory in absentee ballots gave him a 278-vote win.

127. On May 13, 2003, Pabey filed a Petition for Election Recount and Election Contest wherein he challenged the May 6, 2003, primary election results and alleged fraudulent election practices on the part of Pastrick's supporters.

128. The Lake Superior Court, Special Judge Stephen King presiding, conducted a hearing on Pabey's petition beginning on July 22, 2003, and continuing through July 25, 2003. The hearing reconvened August 4, 2003, and continued until August 5, 2003. The court heard final arguments on August 8, 2003.

129. In a ruling entered on August 13, 2003, Special Judge King found that a deliberate series of actions occurred in the May 6, 2003, Democratic Party mayoral primary, and that these actions perverted the absentee voting process and compromised the integrity and results of that election.

130. Special Judge King found that these acts included, but were not limited to the following:

(a) Pastrick supporters engaged in a pattern of inducing ill-informed voters, the infirm, the poor, and those with limited skill in the English language to engage in absentee voting;

(b) Pastrick supporters in numerous instances provided compensation and/or created the expectation of compensation to induce voters to cast their ballot via the absentee process. Those actions primarily – but not exclusively – involved the payment of money to voters to participate in pro-Pastrick rallies outside the polls on Election Day. The court found

that at least thirty-nine separate individuals received cash payments in exchange for casting absentee votes;

(c) Pastrick supporters illegally assisted absentee voters in completing their ballots;

(d) Pastrick supporters used addresses of vacant lots or former residences of voters as addresses on applications for absentee ballots;

(e) On May 6, 2003, the day of the East Chicago mayoral primary, Pastrick supporters illegally possessed unmarked absentee ballots and delivered those ballots to absentee voters;

(f) On the day of the May 6, 2003, East Chicago mayoral primary Pastrick supporters illegally possessed completed and signed absentee ballots;

(g) Pastrick supporters routinely completed substantive portions of absentee ballot applications to which applicants simply affixed their signatures;

(h) In filling out the substantive portions of such absentee ballot applications, Pastrick supporters routinely used false representations—usually that the applicant expected to be absent from Lake County on May 6, 2003—to justify the voter's request for an absentee ballot;

(i) Employees of the City of East Chicago who did not reside in East Chicago cast votes; and

(j) Pastrick supporters, and in particular East Chicago city employees, exhibited a zealotry to promote absentee voting that was motivated by their personal financial interests.

131. Among his general conclusions, Special Judge Steven King of the Lake Superior Court found that “Abundant evidence establishes it was commonplace that absentee voters in the East Chicago Democrat mayoral primary received either a payment of money or promise of compensation by those associated with the Pastrick campaign; in return, those voters were expected to campaign outside the polls on May 6, 2003, *subject to the condition or understanding that those citizens first cast their vote by absentee ballot.*” Special Judge King later elaborated that the Pastrick campaign “involved a network of Democrat party precinct officials, the heads of various city departments and their employees, and interested business persons.”

132. Special Judge King found that the “deliberate quality of the acts is manifested by the repetitive pattern of conduct and representations but also by the recurring role of numerous municipal employees and a particular dozen Pastrick supporters.”

133. Based on these findings, Special Judge King concluded that there was “pervasive fraud, illegal conduct, and violations of election laws.”

134. Special Judge King also found that challenger Pabey’s investigation into the circumstances involved in the application for absentee ballots and the litigation of the issues in this case encountered voter reluctance. Special Judge King also mentioned in his order that he had been presented with a letter from the Lake County Board of Election and Registration to registered East Chicago voters warning them that they did not have to cooperate with anyone asking questions about their absentee ballots and specifically asking them to advise the Board of inquiries concerning how they voted.

135. Special Judge King also found that “the time restraints that govern election contests, primarily designed to serve important interests and needs of election officials and the

public interest in finality, simply do not work well in those elections where misconduct is of the dimension and multifaceted variety present here.”

136. Special Judge King concluded that a special election would serve the public’s interest under the facts demonstrated by challenger Pabey, but felt “constrained by existing principles of Indiana law.” Special Judge King left relief from the “rampant election abuse that occurred here” to “the province of the Indiana Court of Appeals or the Supreme Court.”

137. The Indiana Supreme Court heard arguments in Pabey’s election contest in April. A decision is pending.

138. The circumstances surrounding the 2003 East Chicago mayoral primary show that, far from being an isolated series of incidents, the 1999 Sidewalks for Votes Scheme constituted a regular way of doing business: to win elections through deceitful, dishonest and felonious conduct.

VIII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF **(Violation of 18 U.S.C. § 1962(c))**

139. Plaintiffs reallege all preceding paragraphs.

140. Plaintiffs are “persons” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c).

141. Each of the Scheme Defendants is a “person” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c).

142. The City of East Chicago constitutes an “Enterprise” within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), which Enterprise was engaged in activities affecting interstate commerce at all times relevant to this Complaint.

143. The Scheme Defendants, directly or indirectly, conducted, managed, or operated the affairs of the City of East Chicago by participating in the conduct, management or operation of (1) the East Chicago General Fund and financial instruments; (2) the Gaming Trust; and (3) the operation and management of the proceeds of the BANs, so as to control the manner in which East Chicago money and property would be used.

144. The Scheme Defendants were employed by or associated with the Enterprise and conducted, managed, operated, or participated, directly or indirectly, in the conduct of its affairs through a Pattern of Predicate Crimes as prohibited by 18 U.S.C. §§ 1961(1)(B), 1961(5) and 1962(c), by multiple, repeated and continuous instances of the transfer or transmittal in interstate commerce of money or property they knew to have been stolen or converted in violation of 18 U.S.C. § 2314.

145. The Pattern of Predicate Crimes has extended over a substantial period of time, is continuing, and poses a threat to recur in the future absent intervention because it amounts to a regular way of doing business.

146. Plaintiffs were and are injured in their business or property within the meaning of 18 U.S.C. § 1964(c) through the Scheme Defendants' Predicate Crimes prohibited by 18 U.S.C. §§ 1961(1)(B) and 1962(c), *i.e.*, through the Scheme Defendants' thefts or conversions, and later transfers or transmittals in interstate commerce, of East Chicago's money and property.

147. Pursuant to 18 U.S.C. § 1964(a) and (c), Plaintiffs are entitled to injunctive relief, treble damages, attorneys' fees, and costs for Scheme Defendants' violations of 18 U.S.C. § 1962(c).

148. The Scheme Defendants are jointly and severally liable for the relief owed to Plaintiffs pursuant to this First Claim for Relief.

SECOND CLAIM FOR RELIEF
(Conspiracy in Violation of § 1962(d) to Violate § 1962(c))

149. Plaintiffs reallege all preceding paragraphs.

150. Plaintiffs are “persons” within the meaning of 18 U.S.C. §§ 1961(3) and 1964(c).

151. Each Scheme Defendant is a “person” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c).

152. The City of East Chicago constitutes an “Enterprise” within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), which Enterprise was engaged in activities affecting interstate commerce at all times relevant to this Complaint.

153. The Scheme Defendants were employed by or associated with the Enterprise and conspired within the meaning of 18 U.S.C. §§ 1962(d) to violate 18 U.S.C. § 1962(c), that is, the Scheme Defendants all conspired to conduct or participate, directly or indirectly, in the conduct, management, or operation of the affairs of the Enterprise through a Pattern of Predicate Crimes prohibited by 18 U.S.C. §§ 1961(1)(B), 1961(5) and 1962(c), by multiple, repeated and continuous instances of the transfer or transmittal in interstate commerce of money or property they knew to be stolen and converted in violation of 18 U.S.C. § 2314.

154. Plaintiffs were and are injured in their business or property within the meaning of 18 U.S.C. § 1964(c) through Scheme Defendants’ Predicate Crimes prohibited by 18 U.S.C. §§ 1961(1)(B) and 1962(c), *i.e.*, through the Scheme Defendants’ thefts or conversions, and later transfers or transmittals in interstate commerce, of East Chicago’s money and property, which Predicate Crimes as violations of 18 U.S.C. § 2314 constituted overt acts in furtherance of a conspiracy in violation of 18 U.S.C. § 1962(d).

155. Pursuant to 18 U.S.C. § 1964(a) and (c), Plaintiffs are entitled to injunctive relief, treble damages, attorneys' fees, and costs for Scheme Defendants' violations of 18 U.S.C. § 1962(d).

156. The Scheme Defendants are jointly and severally liable for the relief owed to Plaintiffs pursuant to this Second Claim for Relief.

THIRD CLAIM FOR RELIEF
(Violation of Indiana Code § 35-45-6-1 *et seq.*)

157. Plaintiffs reallege all preceding paragraphs.

158. East Chicago is an "Enterprise" as that term is used in Indiana Code § 35-45-6-1.

159. For their claim for violation of Indiana Code § 35-45-6-1 *et seq.*, Plaintiffs allege that all Individual Defendants and some of the Unknown Defendants A-Z have violated Ind. Code § 35-45-6-2, which proscribes corrupt business influence.

160. Through the actions described in paragraphs 45-113, *supra*, and in furtherance of their ongoing Sidewalks for Votes Scheme, and to steal or convert money or property from the State and from East Chicago, each and every Individual Defendant, some of the Unknown Defendants A-Z, and other East Chicago officials, knowingly and intentionally authorized and performed acts forbidden by law, and knowingly and intentionally acquired or divested themselves of a pecuniary interest in properties, transactions, or enterprises, and aided other persons to do so, based on information obtained by virtue of public office and position. These wrongful acts of the Individual Defendants and some of the Unknown Defendants A-Z constitute official misconduct within Ind. Code § 35-44-1-2.

161. Through the actions described in paragraphs 45-113, *supra*, the Individual Defendants and some of the Unknown Defendants A-Z have committed or conspired to commit numerous acts of theft by knowingly or intentionally exerting unauthorized control over property

of East Chicago, with intent to deprive East Chicago of any part of its value or use, in violation of Indiana Code § 35-43-4-2.

162. Each of these instances of official misconduct and theft constitutes an unlawful activity within the meaning of Ind. Code § 35-45-6-1. Collectively these acts of official misconduct and theft constitute a pattern of unlawful activity within the meaning of Ind. Code § 35-45-6-1 in that they were performed with the same intent, result, accomplice, victim or method of commission or are otherwise related by distinguishing characteristics (in particular that they constituted a regular way of doing business) and are not isolated incidents.

163. The Individual Defendants and some of the Unknown Defendants A-Z, each of whom was employed by or associated with East Chicago, conducted or participated in the conduct of, or conspired to conduct, the affairs of East Chicago through this pattern of unlawful activity in violation of Indiana Code § 35-45-6-2.

164. Through such management and operation of the City of East Chicago the Individual Defendants and some of the Unknown Defendants A-Z intentionally received or conspired to receive proceeds directly or indirectly derived from such pattern of unlawful activity in violation of Indiana Code § 35-45-6-2.

165. The State and East Chicago have incurred monetary losses and have been damaged as a result of these wrongful acts and conduct in violation of Indiana Code § 35-45-6-1.

166. Pursuant to Ind. Code §§ 34-24-2-1 and 34-24-2-6, the Plaintiffs are entitled to injunctive relief, treble damages, attorneys' fees, costs, and punitive damages for the Scheme Defendants' violations of Indiana Code § 35-45-6-2. Each and every violation of Indiana Code § 35-45-6-2 alleged herein was willful, wanton, and deceitful, and otherwise conducted in a manner such that the Plaintiffs are entitled to receive and should receive punitive damages

against each of the Scheme Defendants in an appropriate amount to deter such conduct in the future and to serve the public good.

167. The Scheme Defendants are jointly and severally liable for the relief owed to Plaintiffs pursuant to this Third Claim for Relief.

FOURTH CLAIM FOR RELIEF
(Unjust Enrichment)

168. Plaintiffs reallege all preceding paragraphs.

169. For their unjust enrichment claim against the Company Defendants, Plaintiffs allege the Company Defendants, through the acts and omissions described herein, are all in possession of money that is the rightful property of Plaintiffs. This money is a measurable benefit to the Company Defendants to which the Company Defendants are not entitled and its retention by the Company Defendants is unjust.

170. As a result of the Company Defendants' wrongful conduct, each Company Defendant has been unjustly enriched and the Plaintiffs have suffered a detriment.

171. The Plaintiffs are entitled to restitution and disgorgement from each and every Company Defendant of all amounts they have unjustly and wrongfully received.

172. The Company Defendants are jointly and severally liable for the relief owed to Plaintiffs pursuant to this Fourth Claim for Relief.

FIFTH CLAIM FOR RELIEF
(Civil Recovery for Crime Victims, Indiana Code § 34-24-3-1 *et seq.*)

173. Defendants reallege all preceding paragraphs.

174. For their claim for civil recovery for crime victims under Indiana Code § 34-24-3-1 against all Scheme Defendants, Plaintiffs allege that all Scheme Defendants have committed criminal theft by knowingly or intentionally exerting unauthorized control over money or

property of East Chicago, with intent to deprive East Chicago of any part of its value or use, in violation of Indiana Code § 35-43-4-2.

175. Plaintiffs have an immediate and unqualified right to possession of the misappropriated East Chicago money and property by virtue of their superior claim to title to the money and property.

176. Plaintiffs have incurred monetary losses and have been damaged as a result of these wrongful acts and conduct in violation of Indiana Code § 35-43-4-2.

177. Pursuant to Ind. Code § 34-24-3-1, Plaintiffs are entitled to treble damages, attorneys' fees, and costs for the Scheme Defendants' violations of Indiana Code § 35-43-4-2.

178. The Scheme Defendants are jointly and severally liable for the relief owed to Plaintiffs pursuant to this Fifth Claim for Relief.

SIXTH CLAIM FOR RELIEF
(SBOA Collection)

179. For their claim against the Defendants enumerated below, the Plaintiffs incorporate and reallege the previous paragraphs as if fully set out herein, and further allege as follows.

180. During the years 2000, 2001 and 2002, the SBOA, pursuant to Indiana Code § 5-11-1-9, performed examinations of the books, accounts and records of the City of East Chicago for the years ended December 31, 1999 through December 31, 2001 ("the Audit Periods").

181. In accordance with Indiana Code § 5-11-5-1, the SBOA issued reports of such examinations. These reports include the following: SBOA Audit Report B17309, dated November 6, 2001, which covered the Office of the City Controller of the City of East Chicago for the year beginning January 1, 2000 and ending December 31, 2000; and SBOA Audit Report B19026, dated August 14, 2002, which covered the Office of the City Controller of the City of

East Chicago for the year beginning January 1, 2001 and ending December 31, 2001 (together, the "Audit Reports"). The Audit Reports are provided as Appendices E and F, respectively, to this Complaint, and are incorporated herein by reference.

182. Defendants Maldonado, Weems and Miskowski are officers of the City of East Chicago. The Audit Reports detail their actions.

183. These Audit Reports included findings critical of the East Chicago City Controller's office. By statute, any "finding that is critical of an examined entity" must be based on a failure of that entity to observe uniform compliance guidelines established under Indiana Code § 5-11-1-24(a), or failures of the entity to comply with a specific Indiana law. *See* Ind. Code § 5-11-5-1.

184. These Audit Reports further exposed malfeasance, misfeasance, or nonfeasance on the parts of Defendants Maldonado, Weems and Miskowski and further exposed misappropriation and diversion of East Chicago money and property. Pursuant to Indiana Code § 5-11-5-1(a), the State Examiner referred the Audit Reports to the Relator, who has the statutory duty to institute and prosecute civil proceedings against any delinquent public officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the State or to the proper municipality the recovery of any money or property misappropriated, diverted, or unaccounted-for. The Relator brings SBOA collections claims against these Defendants in the name of the City of East Chicago pursuant to Indiana Code § 5-11-5-4.

185. The Audit Reports name Defendants Calumet Concrete, H & Y Maintenance, A & A Enterprises, Ace Enterprise, Residential Construction, and Dave's Tree Service and allege that they have illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law. The Audit Reports detail these receipts. The Relator

brings SBOA collections claims against these Defendants in the name of the State of Indiana.
Ind. Code § 5-11-7-1.

186. Defendant St. Paul wrote surety bonds upon and in favor of Defendants Maldonado, Weems and Miskowski and their subordinate public employees that covered the Audit Period. The Relator brings SBOA collections claims against this Defendants in the name of the State of Indiana pursuant to Indiana Code § 5-11-5-4.

Against Individual Defendants Maldonado, Weems, and Miskowski

187. During the Audit Periods, Defendants Maldonado, Weems, and Miskowski had a duty to properly account for and deposit all money and property belonging to East Chicago, to assure that the money and property of East Chicago were expended as authorized by law, and to commit no acts of misfeasance, malfeasance, and nonfeasance.

188. During the Audit Periods, Defendants Maldonado, Weems, and Miskowski wrongfully or negligently failed to properly account for, expend and deposit the money and property of East Chicago, or otherwise committed several acts of misfeasance, malfeasance and nonfeasance that resulted in misappropriation, diversion and misapplication of East Chicago's money and property.

189. As a direct and proximate result of Defendants Maldonado's, Weems', and Miskowski's breach of their duties to East Chicago, East Chicago suffered a pecuniary loss in the amount of \$3,112,441.10 during the Audit Periods.

190. Therefore, Defendants Maldonado, Weems, and Miskowski are jointly and severally liable to East Chicago in the amount of \$3,112,441.10.

191. Relator has issued a written demand to Defendants Maldonado, Weems, and Miskowski for payment of this loss, but has received no payment.

Against Company Defendant A & A Enterprises

192. During the Audit Periods, Defendant A & A Enterprises illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law.

193. The total of the East Chicago money and property that Defendant A & A Enterprises illegally received or retained is \$250,931.61.

194. As a result of the matters alleged in the above paragraphs, Defendant A & A Enterprises is liable to the State in the amount of \$250,931.61.

195. Relator has issued a written demand to Defendant A & A Enterprises for payment of this amount, but has received no payment.

Against Company Defendant Ace Enterprise

196. During the Audit Periods, Defendant Ace Enterprise illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law.

197. The total of the East Chicago money and property that Defendant Ace Enterprise illegally received or retained is \$54,489.81.

198. As a result of the matters alleged in the above paragraphs, Defendant Ace Enterprise is liable to the State in the amount of \$54,489.81.

199. Relator has issued a written demand to Defendant Ace Enterprise for payment of this amount, but has received no payment.

Against Company Defendant Calumet Concrete

200. During the Audit Periods, Defendant Calumet Concrete illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law.

201. The total of the East Chicago money and property that Defendant Calumet Concrete illegally received or retained is \$2,082,819.48.

202. As a result of the matters alleged in the above paragraphs, Defendant Calumet Concrete is liable to the State in the amount of \$2,082,819.48.

203. Relator has issued a written demand to Defendant Ace Enterprise for payment of this amount, but has received no payment.

Against Company Defendant Dave's Tree Service

204. During the Audit Periods, Defendant Dave's Tree Service illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law.

205. The total of the East Chicago money and property that Defendant Dave's Tree Service illegally received or retained is \$200,000.00.

206. As a result of the matters alleged in the above paragraphs, Defendant Dave's Tree Service is liable to the State in the amount of \$200,000.00.

207. Relator has issued a written demand to Defendant Dave's Tree Service for payment of this amount, but has received no payment.

Against Company Defendant H & Y Maintenance

208. During the Audit Periods, Defendant H & Y Maintenance illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law.

209. The total of the East Chicago money and property that Defendant H & Y Maintenance illegally received or retained is \$394,303.68.

210. As a result of the matters alleged in the above paragraphs, Defendant H & Y Maintenance is liable to the State in the amount of \$394,303.68.

211. Relator has issued a written demand to Defendant H & Y Maintenance for payment of this amount, but has received no payment.

Against Company Defendant Residential Construction

212. During the Audit Periods, Defendant Residential Construction illegally received or retained public moneys or moneys placed in custody of Defendant Maldonado by authority of law.

213. The total of the East Chicago money and property that Defendant Residential Construction illegally received or retained is \$129,896.52.

214. As a result of the matters alleged in the above paragraphs, Defendant Residential Construction is liable to the State in the amount of \$129,896.52.

215. Relator has issued a written demand to Defendant Residential Construction for payment of this amount, but has received no payment.

Against Insurance Defendant St. Paul

216. **On Surety Bond for Defendant Maldonado:** Insurance Defendant St. Paul executed a surety bond in the amount of \$300,000.00 that was conditioned upon the faithful performance and discharge of duties of Defendant Maldonado as Controller of East Chicago for the term beginning January 1, 1999 and ending December 31, 1999. It executed a second similar bond for the period beginning January 1, 2000 and ending December 31, 2000. It then executed a third such bond for the period beginning January 1, 2001 and ending December 31, 2001.

217. During the terms of these surety bonds, Defendant Maldonado wrongfully and negligently failed to account for, expend and deposit the money and property of East Chicago or

otherwise committed several acts of misfeasance, malfeasance and nonfeasance that resulted in the misappropriation, diversion and misapplication of East Chicago money and property.

218. The total of the East Chicago money and property that Defendant Maldonado misappropriated, diverted and misapplied during the term of these bonds is \$3,112,441.10.

219. As a result of the matters alleged in the above paragraphs, Insurance Defendant St. Paul is jointly and severally liable with the Defendant Maldonado to the State in the amount of \$300,000.00.

220. Relator has issued a written demand to Insurance Defendant St. Paul for payment of this amount, but has received no payment.

221. **On Surety Bond for Defendant Weems:** Insurance Defendant St. Paul executed a surety bond in the amount of \$14,275.00 that was conditioned upon the faithful performance and discharge of duties of Defendant Weems as President of the Board of Public Works of East Chicago for the term beginning January 1, 1999 and ending December 31, 1999. It executed a second similar bond for the period beginning January 1, 2000 and ending December 31, 2000. It then executed a bond in the amount of \$300,000.00 for the period beginning April 19, 2001 and ending April 19, 2002.

222. During the terms of these surety bonds, Defendant Weems wrongfully and negligently failed to account for, expend and deposit the money and property of East Chicago, or otherwise committed several acts of misfeasance, malfeasance and nonfeasance that resulted in the misappropriation, diversion and misapplication of East Chicago money and property.

223. The total of the East Chicago money and property that Defendant Weems misappropriated, diverted and misapplied during the terms of these bonds is \$3,112,441.10.

224. As a result of the matters alleged in the above paragraphs, Insurance Defendant St. Paul is jointly and severally liable with the Defendant Weems to the State in the amount of \$314,275.00.

225. Relator has issued a written demand to Insurance Defendant St. Paul for payment of this amount, but has received no payment.

226. **On Surety Bond for Defendant Miskowski:** Insurance Defendant St. Paul executed a bond in the amount of \$14,275.00 that was conditioned upon the faithful performance and discharge of duties of Defendant Miskowski as the member of the Board of Public Works for the term beginning April 20, 1999 and ending April 20, 2000. It executed a second similar bond for the period beginning April 20, 2000 and ending April 20, 2001. It then executed a third such bond for the period beginning April 20, 2001 and ending April 20, 2002.

227. During the terms of these surety bonds, Defendant Miskowski wrongfully and negligently failed to account for, expend and deposit the money and property of East Chicago or otherwise committed several acts of misfeasance, malfeasance and nonfeasance that resulted in the misappropriation, diversion and misapplication of East Chicago money and property.

228. The total of the East Chicago money and property that Defendant Miskowski misappropriated, diverted and misapplied during the terms of these bonds is \$3,112,441.10.

229. As a result of the matters alleged in the above paragraphs, Insurance Defendant St. Paul is jointly and severally liable with the Defendant Miskowski to the State in the amount of \$14,275.00.

230. Relator has issued a written demand to Insurance Defendant St. Paul for payment of this amount, but has received no payment.

IX. RELIEF DEMANDED

WHEREFORE, Plaintiffs respectfully pray for relief against each and all of the Scheme Defendants, jointly and severally, as follows:

A. An award of compensatory or actual damages for injury to the Plaintiffs' money or property in the amount commensurate with the proof;

B. An award of incidental and consequential damages to the Plaintiffs in an amount commensurate with the proof;

C. An award of additional damages equal to three times the actual or compensatory damages caused to Plaintiffs by the Scheme Defendants' unlawful activity pursuant to 18 U.S.C. §§ 1964(c) and Indiana Code §§ 34-24-3-1 and 34-24-2-6;

D. An award of three times the actual or compensatory damages caused by Scheme Defendants' unauthorized use of East Chicago money and property from the East Chicago General Fund, from the Showboat Agreement proceeds, from the Gaming Trust funds and otherwise, pursuant to 18 U.S.C. § 1964(c) and Indiana Code § 34-24-3-1 and 34-24-2-6;

E. Injunctive relief under 18 U.S.C. § 1964(a) and Ind. Code §§ 34-24-2-1 and 34-24-2-6, including (1) restitution and disgorgement of all amounts wrongfully retained as a result of the Scheme Defendants' illegal practices and wrongful acts; (2) divestment of any interest in the enterprise or property of East Chicago; (3) reasonable restrictions on future activities and investments, including prohibitions against engaging in the same type of endeavor that the Scheme Defendants caused East Chicago to engaged in.

F. Punitive Damages in reasonable and just amount sufficient to deter each of the Scheme Defendants and others from similar wrongful conduct in the future and serve the public good;

G. Reasonable costs and attorneys' fees for the Plaintiffs;

Plaintiffs also pray for relief against each and all of the Individual Defendants, Company Defendants, Insurance Defendants, and Unknown Defendants, jointly and severally, as follows:

I. Judgments pursuant to Indiana Code § 5-11-5-1 *et seq.* as follows:

1. For Plaintiff City of East Chicago and against Individual Defendants Maldonado, Weems, and Miskowski, jointly and severally, in the amount of \$3,112,441.10;
2. For Plaintiff State of Indiana and against Company Defendant A & A Enterprises in the amount of \$250,931.61;
3. For Plaintiff State of Indiana and against Company Defendant Ace Enterprise in the amount of \$54,489.81;
4. For Plaintiff State of Indiana and against Company Defendant Calumet Concrete in the amount of \$2,082,819.48;
5. For Plaintiff State of Indiana and against Dave's Tree Service in the amount of \$200,000.00;
6. For Plaintiff State of Indiana and against Company Defendant H & Y Maintenance in the amount of \$394,303.68;
7. For Plaintiff State of Indiana and against Company Defendant Residential Construction in the amount of \$129,896.52;
8. For Plaintiff State of Indiana and against Insurance Defendant St. Paul in the amount of \$628,550.00; and

J. All other relief as may be just and proper.

X. JURY DEMAND


Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Plaintiffs hereby demand a jury trial as to all issues of this suit.

Respectfully submitted,

STEVE CARTER
Attorney General of the State of Indiana

By: 

Lawrence J. Carcare II
Thomas M. Fisher
Doug Webber
U-Jung Choe
Deputy Attorneys General

By: 
G. Robert Blakey
Special Deputy Attorney General, Of Counsel

Office of the Attorney General of Indiana
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, Indiana 46204
(317) 232-6201

lcarcare@atg.state.in.us
tfisher@atg.state.in.us
dwebber@atg.state.in.us
uchoe@atg.state.in.us